

# Attachment

## RFR Required IT Terms

Request for Response (RFR) for EV Rebate Vendor  
RFR-ENE-2014-023

### 1 REQUIRED IT TERMS

#### 1.1 System Security

As part of its work effort, the selected bidder will be required to use Commonwealth data and IT resources in order to fulfill its specified tasks. For purposes of this work effort, "**Commonwealth Data**" shall mean data provided to the bidder through this effort.

In connection with such data, the bidder will implement commercially reasonable safeguards necessary to:

- Prevent unauthorized access to Commonwealth data from any public or private network;
- Prevent unauthorized physical access to any information technology resources involved in the implementation effort;
- Prevent interception and manipulation of data during transmission to and from any servers; and
- Provide a secure but flexible security platform that enables DOER to allow access to a specific agency, individual access to each agency, and segregated access to municipalities and other eligible entities.
- Limit access to security sensitive or personally identifiable data and files

The bidder will notify the Commonwealth immediately if any breaches to the system occur and will undertake all necessary corrective actions to resolve the breach.

Section 6 of the Commonwealth Terms and Conditions states: "*Confidentiality*. The bidder shall comply with M.G.L. c. 66A if the bidder becomes a 'holder' of 'personal data.' The bidder shall also protect the physical security and restrict any access to personal or other Department data in the bidder's possession, or used by the bidder in the performance of a Contract, which shall include, but is not limited to the Department's public records, documents, files, software, equipment or systems."

In addition to the foregoing requirements, the bidder MUST agree that as part of its work effort under the agreement entered pursuant to this RFR the bidder will be required to use the following Commonwealth personal data under M.G.L. c. 66A and/or personal information under M.G.L. c. 93H, or to work on or with information technology systems that contain such data in order to fulfill part of its specified tasks. For purposes of this work effort, electronic personal data and personal information includes data provided by DOER to the winning bidder which may physically reside at a location owned and/or controlled by the Commonwealth or DOER or winning bidder. In connection with such data, the winning bidder will implement the maximum feasible safeguards reasonably needed to:

- Ensure the security, confidentiality and integrity of electronic personal data and personal information;
- Prevent unauthorized access to electronic personal data or personal information or any other Commonwealth data from any public or private network;
- Prevent unauthorized physical access to any information technology resources involved in the selected bidder's performance of a contract entered under this RFR;
- Prevent interception and manipulation of data during transmission to and from any servers; and
- Ensure the security, confidentiality, integrity and encryption of all bid responses information in the EV REBATE system that is submitted via electronic bidding tools.
- Notify DOER immediately if any breach of such system or of the security, confidentiality, or integrity of electronic personal data or personal information occurs.

The EV REBATE solution must comply with the Commonwealth's Enterprise security access policies and standards located at <http://www.mass.gov/anf/research-and-tech/oversight-agencies/itd/>

## **1.2 Version and Environment Management**

As with any software project, and consistent with the details in Attachment 1, DOER expects the successful bidder to implement comprehensive version control and environment migration procedures. DOER is expecting apparent selected bidder to establish the following separate application and database environments for the project:

- Development/Unit/Accessibility Test
- System/Integration Test
- User Acceptance Test
- Staging/Pre-Production
- Production (with Failover)
- Training/Conversion
- Disaster Recovery

The bidder may also elect to implement a Migration environment to aid the process of migrations of information and code from one environment to another. A separate environment will exist for the DOER data warehouse and associated reporting services.

The selected bidder will be responsible for implementing procedures that protect versions of source code, allow the migration of code and configurations from environment to environment, and allow separate configurations by environment. The bidder is encouraged to recommend tools to aid in the process.

## **1.3 Accessibility**

The bidder must comply with the Commonwealth's established standards for accessibility as described below.

### **1.3.1 Compliance with Commonwealth Standards**

All IT systems and applications developed by, or for Executive department agencies or operating within the Massachusetts Access to Government Network (MAGnet) must conform to the Enterprise Information Technology Policies, Standards and Guidelines promulgated by the Massachusetts Information Technology Division (ITD) as they exist at the time of this RFR's publishing.

Bidder shall ensure that all deliverables that shall be used by end users delivered under this RFR adhere to the ITD Enterprise Information Technology Accessibility Standards and the ITD Web Accessibility Standards Version 2 (collectively, the "**Enterprise Accessibility Standards**") issued by the Massachusetts Information Technology Division ("**ITD**"), both of which are posted by ITD at <http://www.mass.gov/accessibility/> and the current Assistive Technology ("**AT**")/Information Technology ("**IT**") Environment List (the "**AT/IT List**"), which is available under the "IT Acquisition Accessibility Compliance Program" heading at <http://www.mass.gov/accessibility/>. The ITD Standards may be modified from time to time, and bidder is responsible for compliance with the most current version in effect on the date that bidder and DOER execute a contract pursuant to this RFR.

### **1.3.2 Product Accessibility**

Information about the Commonwealth's Enterprise Information Technology Accessibility Standards and Web Accessibility Standards can be found at:

<http://www.mass.gov/anf/research-and-tech/policies-legal-and-technical-guidance/tech-guidance/>

#### **Accessibility Test Results and Waivers**

Bidders shall submit with their bid the VPAT for each piece of COTS and/or SaaS/IaaS Software product that the bidder proposes to be used by end users. It is understood that some bidders will not have VPATs for all COTS and/or SaaS/IaaS Software products included in their bid. Bidders may, but are not required to, create a VPAT for such products and include it in their bid.

#### **a) VPATs Provided.**

Bidder shall provide Voluntary Product Accessibility Templates ("**VPATs**") for all bidder and Third Party Software with which end users will interact in connection with the Services (the "**End User Software**").

#### **b) VPATs Not Provided.**

With respect to Software for which bidder does not provided satisfactorily detailed VPATs, bidder shall provide any alternative accessibility testing information or test results to which it has access.

#### **c) Waiver and Mitigation Plan.**

A bidder that lacks VPATs or other credible accessibility testing results for the End User Software will not be disqualified from further consideration.

If the bidder does not submit a VPAT for all End User Software, or the bidder's VPATs or other accessibility testing results show that the proposed bidder and Third Party Software do not present significant accessibility issues then DOER will file a request for waiver to the ITD Assistive Technology Unit, which if approved by the Unit, may result in the issuance of a required mitigation plan.

If DOER files a waiver request on behalf of the vendor with the Unit, then DOER will not enter into an Agreement under this RFR until such time as it receives such approval from the Unit in the form of a waiver mitigation letter. As noted above, the "waiver" or mitigation letter will not waive the Enterprise Accessibility Standards permanently by excusing DOER indefinitely from meeting them, but will permit DOER to enter a contract with the bidder under which accessibility problems with the COTS and/or SaaS/IaaS Software products are resolved or mitigated after contract execution. The waiver or mitigation letter may impose requirements regarding accessibility on bidder in addition to and consistent with this section, which shall become part of the contract between DOER and the winning bidder.

### **Bidder Testing**

Bidder shall test every End User Software component for which it lacks satisfactorily detailed VPATs or alternative credible accessibility test results, and every configured version of, modification, customization, or upgrade thereto offered to DOER in connection with the Services. Bidder shall conduct such testing based on the Enterprise Accessibility Standards, and for interoperability with the AT/IT List. Prior to making each such End User Software component or configured version of, modification to, customization of or upgrade to available to DOER in connection with the Service, bidder shall deliver to DOER the results of such testing.

Accessibility testing will be incorporated as part of its overall quality assurance process. In this regard, bidder shall test for accessibility during any or all of unit testing, integration testing, final acceptance testing and system testing. In addition to bidder's independent testing obligations set forth herein, bidder shall cooperate with ITD's Third Party bidders, including its Accessibility Testing Vendor, in its performance of testing. Bidder shall deliver to DOER the results of such testing prior to making such End User Software component or configured version of, modification to, customization of or upgrade to available to DOER in connection with the Services.

### **Accessibility Advisory Committee**

DOER and bidder will collaborate and communicate throughout the provision of the Services with and among any Third Party bidders, including, without limitation, COTS and SaaS/IaaS vendors and third party accessibility testing vendors ("**Accessibility Testing Vendor**"), as well as with the Accessibility Advisory Committee ("**AAC**"). The AAC, which shall be comprised of at least one representative from each of bidder, DOER and certain agencies of the Commonwealth designated by DOER, including, without limitation, the Massachusetts Office on Disability, Executive Department disability coordinators, Massachusetts Rehabilitation Commission, Massachusetts Commission for the Blind and Massachusetts Commission on the Deaf and Hard of Hearing, shall convene for its first meeting no later than ten (10) calendar days after the Effective Date of any Agreement entered under this RFR.

Following such initial meeting, the AAC shall meet as mutually agreed to by DOER and bidder in consultation with the AAC, but at a minimum, once a quarter. The purpose of such meetings shall be to discuss any questions relating to accessibility testing or any other requirements set forth in this section and to ensure that any concerns raised by a

member of the AAC or a third party regarding accessibility of the Services are discussed, identified and addressed as required in this section.

### **1.3.3 Maintenance**

Any maintenance and service level agreement entered into by bidder and DOER in connection with the EV Rebate Solution delivered under this RFR shall require bidder to cooperate with DOER in its efforts to resolve interoperability problems that arise during the term of the maintenance agreement related to the use of such system.

### **1.4 Service Level Agreements**

The EV REBATE Solution, once deployed, must meet minimum performance and availability requirements, or equivalent measures, which will be negotiated and finalized as Service Level Agreements (SLAs) in the Statement of Work.

### **1.5 Warranty Periods**

The warranty period for the integrated system will commence upon the final acceptance by DOER of all deliverables and the system as a whole and will extend for a period of 12 months.

In addition to the integrated system warranty, each deliverable that is put into production use by DOER after acceptance of such deliverable by DOER, but prior to final acceptance is warranted from the date on which it goes into production use until the date on which the warranty period for the integrated system begins.

All warranty periods will be extended until all defects arising during the warranty periods are remedied by the bidder.

During all warranty periods, the bidder will remedy all defects in a timely manner and without additional cost to DOER.

In addition, the bidder must obtain and maintain, for itself and for the benefit of DOER, warranty, support, and maintenance coverage for all third-party software and hardware sufficient to enable it to perform all services it is required to perform under the Contract.

The bidder must agree in its Response to the foregoing.

### **1.6 Technology Policy Standards & Guidance**

Respondents are advised that the Commonwealth may not contract for products which fail to meet or support ITD Enterprise Standards and Policies.

Utilize the following link for a listing of ITD IT Policies, Standards & Guidance that the Information Technology Division ("**ITD**") provides to the Commonwealth.

<http://www.mass.gov/anf/research-and-tech/policies-legal-and-technical-guidance/it-policies-standards-and-procedures/>

The EV REBATE solution must comply with the Commonwealth's Enterprise security access policies and standards located at <http://www.mass.gov/anf/research-and-tech/cyber-security/security-for-state-employees/security-policies-and-standards/enterprise-access-control-security-policies-and-standards/>

### **1.7 Warranties**

Bidder represents and warrants to DOER that:

- 1.7.1** Bidder and its subcontractors are sufficiently staffed and equipped to fulfill bidder's obligations under the agreement(s) entered under this RFR;
- 1.7.2** Bidder's services will be performed:
- By appropriately qualified and trained personnel;
  - With due care and diligence and to a high standard of quality as is customary in the industry;
  - In compliance with the delivery dates set forth in the Statement of Work (to be negotiated) and the terms and conditions of the agreement(s) entered under this RFR; and
  - In accordance with all applicable professional standards for the field of expertise;
- 1.7.3** Deliverables delivered under the agreement(s) entered under this RFR will substantially conform with the Tasks and Deliverable descriptions set forth in the agreement(s) entered under this RFR;
- 1.7.4** All media on which bidder provides any software under the agreement(s) entered under this RFR shall be free from defects;
- 1.7.5** All software delivered by bidder under the agreement(s) entered under this RFR shall be free of Trojan horses, back doors, and other malicious code;
- 1.7.6** Bidder has obtained all rights, grants, assignments, conveyances, licenses, permissions and authorizations necessary or incidental to any materials owned by third parties supplied or specified by bidder for incorporation in the Deliverables to be developed;
- 1.7.7** If any third-party software or licenses included in the deliverables are subject to a separate shrink-wrap or click-wrap license, DOER's operation of such third-party software or licensed deliverables (including, without limitation, opening the shrink-wrapped package or clicking "accept" or "OK" or the like) shall not limit any of DOER's rights or the successful Bidder's obligations under the Agreement, except as specifically set forth in the Agreement or in writing signed by DOER and the successful Bidder;
- 1.7.8** The successful Bidder will not de-install, disable or repossess any deliverable by means of any disabling device or self-help (electronic or otherwise) even if DOER fails to perform any of its obligations under the Agreement;
- 1.7.9** Documentation provided by bidder under the agreement(s) entered under this RFR shall be in sufficient detail so as to allow suitably skilled, trained, and educated DOER personnel to understand the operation of the Deliverables. Bidder shall promptly, at no additional cost to DOER make corrections to any documentation that does not conform to this warranty; and
- Any systems created or modified by bidder under this SOW shall operate in substantial conformance with the specifications for the system or modifications for a minimum of twelve (12) months (the "Warranty Period") after DOER accepts such system or modifications pursuant to Section 6 (Acceptance) of the SOW entered under this RFR. During the Warranty Period, bidder shall correct any Severity Level I, II or III defects, at no charge to DOER. Severity Level I, II and III have the following meanings:

**Level I:** This is either a safety issue or an issue that affects a central requirement for which there is no workaround. It prevents either use or testing of the system.

**Level II:** This is an issue that affects a central requirement for which there is a workaround, where use or testing of the system can proceed in a degraded mode, or an issue that affects a non-central requirement for which there is no workaround, where the feature cannot be used.

**Level III:** This is an issue that affects a non-central requirement for which there is a workaround, or a cosmetic issue, i.e. information is correctly shown but the appearance is wrong, such as misspelled words, wrong font, wrong indentation, etc.

## **1.8 Bankruptcy**

The successful Bidder must agree that:

All rights and licenses granted by successful Bidder under the agreements entered pursuant to this RFR are and shall be deemed to be rights and licenses to "intellectual property", the agreements entered pursuant to this RFR are "supplementary" to this the Contract (as defined by the Standard Contract Form), and the subject matter of the agreements entered under this RFR, including all rights and licenses granted under or pursuant to this RFR or any subsequent agreement by the successful Bidder, is and shall be deemed to be "embodiment[s]" of "intellectual property," in each case, as such terms are used in and interpreted under Section 365(n) of the United States Bankruptcy Code (the "Code") (11 U.S.C. § 365(n)). DOER shall have all rights, elections and protections under the Code and all other applicable bankruptcy, insolvency and similar laws with respect to the agreements entered pursuant to this RFR and the subject matter thereof. Without limiting the generality of the foregoing, the successful Bidder acknowledges and agrees that, if the successful Bidder or its estate becomes subject to any bankruptcy or similar proceeding:

- a. Subject to DOER's rights of election under Section 365(n), all rights, licenses and privileges granted to DOER under the agreements entered pursuant to this RFR will continue subject to the respective terms and conditions thereof, and will not be affected, even by successful Bidder's rejection of the agreements entered pursuant to this RFR;
- b. DOER shall be entitled to a complete duplicate of (or complete access to, as appropriate) all such intellectual property and embodiments of intellectual property, which, if not already in DOER's possession, shall be promptly delivered to DOER or its designee, unless successful Bidder elects to and does in fact continue to perform all of its obligations under this Agreement; and
- c. The automatic stay under Section 362 of the Code (11 U.S.C. § 362) shall not apply to any instructions from DOER to the Escrow Agent relating to the escrow deposit materials.

## **1.9 Security**

With respect to any hosted data, whether on a multitenant or private cloud environment, the cloud environment must meet FedRAMP moderate security requirements, or, in the alternative,

the bidder must indicate the bidder's planned or pending application for certification with FedRAMP moderate Authority to Operate. Those bidders who have an application for FedRAMP certification pending must submit a copy of that application as part of the RFR Response.

In order to meet this security requirement, the bidder also has the alternative option of providing detailed information in the bidder's RFR response representing how the bidder currently meets the FedRAMP moderate standards even if the bidder has not applied for/obtained the FedRAMP certification referenced above. In the event that the bidder elects to pursue this alternative option, the bidder must complete and submit, as part of the RFR Response, the FedRAMP excel matrix found at the following link:

[http://www.gsa.gov/graphics/staffoffices/FedRAMP\\_Security\\_Controls\\_072912.zip](http://www.gsa.gov/graphics/staffoffices/FedRAMP_Security_Controls_072912.zip)

MassDOER reserves the right to determine, in its sole discretion, whether the bidder's RFR response submitted pursuant to this alternative option complies with this security requirement.